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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054573
Party	Plaintiff LayerZero Power Systems, Inc.
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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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In the Matter of Registration Nos:

3,998,542 and 3,998,543

Issued on: July 19, 2011

LAYERZERO POWER SYSTEMS, INC.,

Petitioner,

vs. Cancellation No. 92054573

ORTRONICS, INC.,

Registrant.

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Deposition of
MILIND BAHNOO-VOLUME II

October 30, 2013

9:02 a.m.

Taken at:

Calfee, Halter & Griswold, LLP

1405 East Sixth Street

Cleveland, Ohio

Jill A. Kulewsky, RPR, Notary Public

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NUMBER	DESCRIPTION	MARKED
Exhibit 1	A Schedule Of Promotional And Advertising Expenses 289

1 MILIND BAHNOO, of lawful age, called for
2 examination, as provided by the Federal Rules
3 of Civil Procedure, being by me first duly
4 sworn, as hereinafter certified, deposed and
5 said as follows:

6 EXAMINATION OF MILIND BAHNOO

7 BY MR. GIARRATANA:

8 Q. Good morning, Mr. Bhanoo.

9 A. Good morning.

10 Q. Could I direct your attention to
11 Petitioner's Exhibit 6?

12 A. Yes.

13 Q. And if I could direct your
14 attention to the first page of the exhibit, and
15 is that first page a summary of a test that was
16 performed on your company's optical power
17 transfer switch?

18 A. Yes, it is.

19 Q. And that summary was prepared on
20 June 15th of 2002?

21 A. Yes, it was.

22 Q. And that is a summary showing that
23 the optical power transfer switch passed a test
24 necessary for Underwriters Laboratory listing?

25 A. Yes, and CSA also.

1 Q. And CSA is for the Canadian
2 equivalent of the Underwriters Laboratory
3 listing?

4 A. Yes.

5 Q. And that Underwriters Laboratory
6 listing is necessary in order for you to sell
7 your product in the United States?

8 A. No, it's not necessary.

9 Q. As a practical matter, is it
10 necessary?

11 A. It's not required. It's not --
12 we're able to sell the product even if we don't
13 have it, but it helps in the sale of the
14 product.

15 Q. And the second to last pages on
16 that report -- of that exhibit -- strike that.

17 The following pages on that
18 exhibit, are those the test report itself that
19 the summary was prepared -- based on?

20 A. Let me just check myself and
21 refresh my memory.

22 Yes, I believe this is -- starting
23 at page LZPS 000311 is the report that Intertek
24 Testing Services provided to us as a part of
25 that service that they performed.

1 Q. The -- on page LZPS 000311, there
2 is a body of text beginning with the word
3 General: Do you see that?

4 A. I do.

5 Q. And it states, "This report gives
6 the results of the inspection, tests and
7 evaluation of static transfer switches for
8 compliance with applicable requirements of the
9 Standard for Safety of Transfer Switch
10 Equipment (ANSI/UL 1008, 5th Edition, 1999 rev)
11 and the Standard for General Use Power Supplies
12 (CSA-C22.2 No. 107.1-95, 2nd Edition)." Is
13 that an accurate statement?

14 A. Yes.

15 Q. So this was a test that was done in
16 order to ensure compliance with those
17 standards?

18 A. Yes.

19 Q. And is it your testimony that it's
20 not necessary that you comply with those
21 standards?

22 A. That is correct.

23 Q. And the first standard that we just
24 read there, that's a standard for the safety of
25 transfer switch equipment; is that correct?

1 A. Correct.

2 Q. And is it your testimony that as a
3 practical matter, it's not necessary that you
4 comply with a standard of safety for static
5 transfer switches?

6 A. This standard of safety. If you
7 ask can my static switch be sold if it's
8 unsafe, then as a practical matter it can't,
9 but I think I interpret your question as, is it
10 necessary to have UL 1008 to sell a static
11 transfer switch, then the answer is no.

12 Q. I believe you indicated that you
13 would show this particular document to
14 customers of your optical power transfer
15 switch, is that what you said?

16 A. Yes.

17 Q. At what point during the -- strike
18 that.

19 I believe you indicated that you
20 would do that as part of the selling process?

21 A. Yes.

22 Q. At what point during the selling
23 process would you show this document to your
24 customer?

25 A. I think it varied, depending on

1 what the immediate intention was with that
2 customer. As I stated earlier, selling the
3 first few projects was very difficult for a new
4 company in the critical power business, and we
5 needed to lower the barriers to -- of objection
6 to getting our product accepted.

7 If a company that had been building
8 static switches for 30 years, as an example, if
9 you introduced a new model that was not UL 1008
10 listed, it probably would be accepted, but if a
11 brand new corporation comes into the mix and
12 comes in and says, Here is a static transfer
13 switch, then in order to lower the barriers to
14 entry into that space, it helps to have an
15 Underwriters Lab listed product.

16 Q. So at some point during the sales
17 process when your potential customer starts to
18 dig in and evaluate your product, this would be
19 something that you might show them to show them
20 that --

21 A. Sure.

22 Q. -- is that correct?

23 A. Correct.

24 Q. And I imagine you would show them
25 this along with many other documents and

1 information about your product; isn't that
2 correct?

3 A. Correct.

4 Q. Can I direct your attention to
5 Petitioner's Exhibit 25.

6 A. Okay, I'm there.

7 Q. And is Exhibit 25 a copy of a white
8 paper that you co-authored?

9 A. Yes, it is.

10 Q. And if I could direct your
11 attention to the first -- or the second page,
12 LZPS 001111 and to the title block?

13 A. Yes.

14 Q. At the base of the title block
15 there is a concluding sentence that says Here
16 we address, do you see that?

17 A. Yes.

18 Q. It states, "Here we address a power
19 distribution architecture that can double the
20 critical power available without increasing
21 floor space." Is that correct?

22 A. Yes.

23 Q. And is this article -- strike that.
24 Does this article summarize that
25 proposed power distribution architecture?

1 A. Yes, that was one of the intents of
2 this article.

3 Q. And could I direct your attention
4 to the first full paragraph on that same page
5 under the block and there's a last sentence
6 that states For this reason?

7 A. Yes.

8 Q. I'll read it. "For this reason, we
9 must understand transformer physics. The
10 objective of this paper is to examine some
11 general facts related to a combination of
12 circuits and systems and describe an informed
13 opinion as to the anticipated consequences of
14 their use." Did you write that?

15 A. I may have.

16 Q. Is it an accurate statement?

17 A. Yes.

18 Q. Was it your belief that it was
19 necessary to understand transformer physics in
20 order to understand the proposed power
21 distribution architecture that you were
22 proposing in this paper?

23 A. Yes.

24 Q. Could I direct your attention to
25 Petitioner's Exhibit 20-A?

1 A. Yes.

2 Q. And if we could -- let's turn to
3 the page of the exhibit, and this is a copy of
4 a catalog page from an Ortronics catalog,
5 illustrating a fictitious data center white
6 space and showing within that fictitious white
7 space Ortronics wiremold and Cablofil products,
8 correct?

9 A. Correct.

10 Q. And the handwritten indicia on
11 there is your illustration of where some of
12 your company's equipment might fit within a
13 fictitious data center white space; is that
14 correct?

15 A. Precisely.

16 Q. And you're not aware of any actual
17 data center white space that has the goods that
18 you've identified on this exhibit, as shown in
19 this exhibit, next to the Ortronics wiremold
20 and Cablofil goods shown in this exhibit; is
21 that correct?

22 A. I am aware of it.

23 Q. Listen to my question carefully,
24 okay.

25 A. Okay. Okay.

1 Q. My question is, you're not aware of
2 any instance where a white space has these
3 particular Ortronics Cablofil and wiremold
4 goods and next to those particular goods shown
5 has the LayerZero Power distribution goods that
6 you've shown here? You're not aware of one
7 actual white space that actually has those
8 goods; isn't that correct?

9 A. I'll have to qualify my answer.

10 Q. First of all, just answer me yes or
11 no.

12 A. I think I am aware of it.

13 Q. Then identify for me specifically
14 the actual white space that has these branded
15 goods shown in this exhibit --

16 A. Sure.

17 Q. -- alongside your branded goods as
18 shown in the exhibit?

19 A. I think I gave testimony to this
20 last --

21 Q. Yeah, you gave testimony to the
22 Coit Road facility, correct?

23 A. Yes.

24 Q. For Bank of America?

25 A. Yes.

1 Q. And that's the one instance you're
2 thinking about, correct?

3 A. Yes.

4 Q. And that's the one instance that
5 you're personally aware of, correct?

6 A. Correct.

7 Q. And in that one instance, what you
8 testified to was that there was one
9 Ortronics -- that there were some Ortronics
10 racks; isn't that correct?

11 A. No.

12 Q. What's your recollection?

13 A. My recollection is that --

14 Q. No, strike that.

15 You recall your deposition that was
16 taken in this case on July 18th of 2012?

17 A. I remember giving the deposition.

18 Q. And do you recall me asking you the
19 question, So can I ask you if you can identify
20 for me any customers where LayerZero Power
21 Systems, Inc.'s products identified in
22 Paragraph 12 are being used in conjunction with
23 any cable management racks and cabinets of
24 Ortronics. Do you recall that?

25 A. Yes.

1 Q. And you answered, in pertinent
2 part, "I personally stood at the CRDC Phase I.
3 That roughly stands for Coit Road Data Center.
4 That is a Bank of America center in Plano,
5 Texas, 1000 Coit Road, where we had installed
6 as part of a job number 1018." Do you recall
7 that?

8 A. Yes.

9 Q. And then you stated down further,
10 in pertinent part, "And when I went there to
11 inspect our installation, along with a couple
12 of Bank of America executives, after the
13 commissioning was done, I witnessed -- I
14 personally saw cable trays, racks that were
15 marked Ortronics adjacent to the ePanel HD
16 remote power panels that we've installed."
17 Correct?

18 A. Correct.

19 Q. And is that accurate testimony?

20 A. Yes, it is.

21 Q. So you saw -- when you said cable
22 trays, racks, you saw cable -- you saw racks?

23 A. Yes, in that context, I agree, I
24 saw racks, yes. When you said racks earlier, I
25 interpreted them as vertical cabinets that held

1 servers, and so I did not see Ortronics'
2 vertical cabinets that held servers, I saw
3 cable trays and racks that held cable.

4 Q. And you saw, also in that same
5 facility, your ePanel HD product?

6 A. Correct, 80 instances of it.

7 Q. Of your ePanel HD?

8 A. All lined up exactly the way I've
9 drawn it in that drawing, in that Item 20-A,
10 Exhibit 20-A, where the ePanel HD is located.

11 Q. Yeah, but it's not exactly as
12 you've shown in the drawing, Mr. Bhanoo,
13 because you did not see in that facility one of
14 your eRPPs, did you?

15 A. I did.

16 Q. And you also saw in that facility
17 an ePanel 2?

18 A. Yes, sir.

19 Q. But you didn't see in that facility
20 the other Ortronics products shown in this
21 drawing, did you, besides the cable trays,
22 racks?

23 A. In this drawing, I don't see any
24 Ortronics products, I just see a depiction of a
25 cutout of a data center and I see legends.

1 MR. GIARRATANA: Move to strike as
2 argumentative.

3 Q. Mr. Bhanoo, you took this picture
4 out of an Ortronics catalog; isn't that
5 correct?

6 A. Yes.

7 Q. And isn't it correct that this
8 Ortronics catalog shows Ortronics' goods in the
9 picture? Isn't that the intent of this?

10 A. Yes.

11 Q. But when you've marked it up, you
12 don't intend for that to show Ortronics'
13 products; is that what you're saying?

14 A. I'm showing where our products go
15 in a data center that's depicted in this
16 drawing.

17 Q. And that's your only purpose?

18 A. That's what I did, yes.

19 Q. Now, with respect to that Coit Road
20 facility, you're not aware of anybody being
21 actually confused as a result of the Ortronics
22 cable trays and racks being located in the same
23 facility as your company's products; isn't that
24 correct?

25 A. Correct.

1 Q. Now, Mr. Bannoo, on Exhibit 20-A
2 you -- you've drawn in a, I'll call it
3 schematic fashion, an overhead busway, correct?

4 A. Yes, correct.

5 Q. Your product -- your company does
6 not sell today an overhead busway, does it?

7 A. That is correct.

8 Q. That is an -- isn't it correct that
9 you did not disclose to us during Discovery in
10 this case your work on the overhead busway;
11 isn't that correct?

12 A. Correct.

13 Q. And the overhead busway that you've
14 shown in this exhibit, that's intended to route
15 power cables; is that correct?

16 A. It's intended to provide power to
17 the individual vertical cabinets.

18 Q. And what is located within this --
19 strike that.

20 What do you intend to be located
21 within this overhead busway that you've
22 illustrated in the exhibit?

23 A. The overhead busway has no cables
24 in it. The overhead busway is long strips of
25 copper that run the length of the server racks,

1 the vertical -- when I say server racks, I'm
2 talking about the vertical cabinets that hold
3 servers. They're usually arranged in long rows
4 as shown in Exhibit 20-A.

5 The overhead busway runs above the
6 server racks in long strips of copper that
7 carry power. We would plug in circuit breakers
8 into that overhead busway and have vertical
9 cable drops, they call them, that go straight
10 into the cabinets. Those circuit breakers
11 would be monitored for current and power
12 consumption, so that's what was intended with
13 this drawing. We've been asked by one of our
14 customers to develop this for them.

15 Q. I just asked you about the product.
16 Thank you.

17 A. I'm sorry.

18 Q. And the overhead busway would go in
19 the ceiling?

20 A. It would hang from the ceiling and
21 would be roughly a foot to two feet above the
22 highest level of the -- the height of the
23 vertical server rack. They hang them on
24 stringers, they call them, from the ceiling.

25 Q. Is my understanding correct that

1 that's a product you're considering developing?

2 A. We are developing it.

3 Q. Mr. Bhanoo, if I could direct your
4 attention to Exhibit 21, please.

5 A. I'm getting there.

6 Q. Take your time, it's okay.

7 A. It's the last one. Okay, we're
8 there.

9 Q. And Mr. Bhanoo, is Exhibit 21 a
10 collection of Ortronics documents that your
11 counsel put together in connection with this
12 matter?

13 A. Yes, it is.

14 Q. And I believe you testified
15 yesterday that you were familiar with some or
16 all of those documents; is that correct?

17 A. Yes, I did.

18 Q. And is it correct that you became
19 familiar with those documents through work
20 you've done in connection with this matter?

21 A. Correct.

22 Q. And you did not become familiar
23 with those documents through any work other
24 than the work you did in connection with this
25 matter; isn't that correct?

1 A. That is correct.

2 - - - - -

3 (Thereupon, Registrant's Exhibit 1,
4 A Schedule Of Promotional And
5 Advertising Expenses, was marked for
6 purposes of identification.)

7 - - - - -

8 Q. I would like to place before you,
9 Mr. Bhanoo, what we've previously marked as
10 Registrant's Exhibit 1, and I'll ask you to
11 take a look at that, please, and when you're
12 ready, I'm going to ask you to identify those
13 for me. So if you don't mind, please take a
14 look at them.

15 A. Yes.

16 Q. So starting with the first page,
17 which is LZPS 003442, could you identify that,
18 please?

19 A. It's a schedule that I prepared of
20 promotional and advertising expense, not
21 including sales commissions, on September 20th
22 of 2012.

23 Q. And those show -- strike that.

24 This page shows the total
25 promotional and advertising expenses incurred

1 by your company in connection -- in each of the
2 years indicated?

3 A. Yes.

4 Q. And then if we could turn to page
5 LZPS 003438 of that exhibit, and if you could
6 tell us what that is?

7 A. I don't personally recognize making
8 this chart, but it looks to me like it's a
9 compilation of expenses associated with various
10 advertising that we've done. I'm assuming this
11 is a LayerZero chart. It doesn't really say
12 whose expenses these are.

13 Q. Is this a breakdown of the
14 advertising and promotional expenses for the
15 years 2009, 2010, 2011 and 2012?

16 A. It's got some elements associated
17 with it. I don't know if it's the entire
18 advertising expense, because all this says is
19 Google Adwords, Bing, FaceBook and a few posts
20 and magazines.

21 Q. Where it states Bing Advertising,
22 do you have an understanding as to -- first of
23 all, whether that expense was incurred by your
24 company?

25 A. I can't tell you factually if it

1 was. I'm assuming it was because you're
2 presenting this as a LayerZero document. I did
3 not prepare this particular document.

4 Q. So do you have an understanding as
5 to what advertising your company did with Bing
6 and as reflected in those expenses?

7 A. In principle I do, yes.

8 Q. What is that?

9 A. In principle what we do is, we put
10 ad words in search engine -- in search engines
11 so that when a customer or potential customer
12 or anyone who is casually interested in product
13 types in our ad word, then --

14 Q. They get directed to your website?

15 A. If they get directed to the website
16 and if they click on it, there are various
17 models that they put together, and I'm sure
18 there's a rich history of this, but we get
19 charged on an as-used basis and that's what
20 these charges would be.

21 Q. And that's the same -- in
22 principle, that's the same thing you do with
23 respect to the Google Adwords; is that correct?

24 A. Correct.

25 Q. And what is -- why do you have

1 FaceBook charges?

2 A. I think we have a FaceBook web
3 page, and I believe it's also an advertising --
4 you can -- FaceBook does make money, they do
5 have revenue and they charge companies like us
6 to put ourselves out there, so --

7 Q. As long as my teenage daughter is
8 not paying for it, for her stuff on FaceBook,
9 we're good.

10 So Data Center Post, do you have an
11 understanding as to what you did to incur those
12 expenses?

13 A. I do not.

14 Q. How about Processor Magazine?

15 A. I vaguely recall that we placed a
16 small product, you know, placement in that
17 magazine.

18 Q. And how about Datacenter Dynamics?

19 A. That was an ad that we placed in
20 it, in the Datacenter Dynamics magazine.

21 Q. And how about PR Web?

22 A. I think --

23 Q. Strike that. That's part of
24 Datacenter Dynamics, I think, correct, or you
25 don't know?

1 A. I don't know.

2 Q. How about I Newswire?

3 A. It might have been a press release
4 that we had to pay for.

5 Q. And how about AHCA Annual Seminar
6 Event Program?

7 A. I believe this had to do with an
8 AFCOM event, I forget what AFCOM stands for,
9 but one of the events, and we had to pay a
10 small fee to get our name in there.

11 Q. You said AFCOM. Is it AFCOM or
12 AFCA?

13 A. I think they were jointly hosting a
14 seminar at one point, AFCOM and AHCA.

15 Q. Do you know what AHCA stands for?

16 A. I do not off the top of my head.

17 Q. Could I direct your attention to
18 the next three pages of this exhibit, which are
19 LZPS 003439 through 3441?

20 A. Yes.

21 Q. Could you identify that for us?

22 A. It looks to me like a compilation
23 of trade shows that we've attended, advertising
24 trade show materials that we pulled together,
25 web services that we used and other promotional

1 items. Translation services also.

2 Q. And is this backup to the first
3 page of the exhibit, 3442?

4 A. Not for every year, I don't think,
5 but it probably contributes to it, yes.

6 Q. Is it the backup for the years 2009
7 through 2011?

8 A. It could be. There might be some
9 discrepancies. They were prepared by two
10 different people. The first was prepared by
11 me; the second was prepared by our marketing
12 manager.

13 Q. So let's go back to the first,
14 which is 3442. Could you describe for me how
15 you created this summary?

16 A. Yes, I will.

17 MR. RUNDELLI: What was the number
18 on that page again, excuse me?

19 MR. GIARRATANA: 3442, Ray, the
20 first page.

21 MR. RUNDELLI: Thank you.

22 A. So I think I've spoken about this
23 in the past, but we have a fairly rudimentary
24 accounting system that has -- we use QuickBooks
25 as the basis of it. So when I prepared this

1 statement, I looked through any obvious
2 expenses I could find on our QuickBooks
3 register. When -- much of our expenditures
4 that happen with regard to travel, sales
5 promotional materials are done with credit
6 cards, and so in our QuickBooks expenditures,
7 we capture the monthly credit card as a lump
8 sum amount. We don't break it out by every
9 vendor and every dollar that was spent.

10 In order to compile that, I went
11 back through credit card statements and
12 receipts to try to catch as many of the large
13 items as I could, as many of the items as I
14 remembered as I could. Now -- so that's how I
15 came up with the best estimate I could come up
16 with of these expenses from 2001 through 2011.

17 On the other hand, the exhibit that
18 starts 3439 through 3441 was done by a
19 marketing manager who looks at what do vendors
20 quote him and those are the numbers that he
21 probably put down, as well as he probably went
22 on some of the more specific numbers, such as
23 Google Adwords and Bing Advertising, and he
24 might have went on the actual accounts and
25 looked at the amount that was spent on those

1 websites.

2 So if you're trying to do an
3 accounting match-up, it's likely they won't
4 match up exactly.

5 Q. Is my understanding correct that
6 you never compared your summary on Page 3442
7 with the information on the other pages of this
8 exhibit to see whether or not they're
9 consistent?

10 A. That is a correct statement.

11 Q. And the other -- the pages on this
12 exhibit other than 3442, those were prepared by
13 somebody else and you really don't know how
14 they were prepared?

15 A. They were prepared by somebody else
16 and I know how they were prepared, from actual
17 costs that that person had from the quotations
18 that they got for the activities, as well as by
19 going on those accounts. We have online
20 accounts with Google, online accounts with Bing
21 where we can go look up our expenses on a
22 monthly basis, and that's probably how this was
23 added up.

24 Q. So you're making some assumptions
25 as to how you assume Mr. Fenik would have done

1 this, but is my understanding correct, you
2 don't have firsthand knowledge as to how
3 Mr. Fenik created these documents?

4 A. Yes, that's an accurate statement.

5 Q. I believe yesterday you testified
6 that your company had sold a product to Wells
7 Fargo?

8 A. Yes.

9 Q. And who was the purchasing
10 decisionmaker at Wells Fargo, do you know?

11 A. Yes. I don't remember his last
12 name, but his first name was Hank. He was
13 director of engineering at Wells Fargo.

14 Q. And do you recall what facility he
15 was located in?

16 A. Yes, I do. He was located at the
17 1801 Northshore Drive -- let's just call it the
18 1801 facility of Wells Fargo.

19 Q. In?

20 A. In Shoreview, Minnesota.

21 Q. Thank you.

22 Mr. Bhanoo, were you involved in
23 registering your business name with the Ohio
24 Secretary of State?

25 A. Yes, I was.

1 Q. And is it correct that you
2 registered the business name LayerZero Power
3 Systems, Inc. with the Ohio Secretary of State?

4 A. Yes, I did.

5 Q. And is it correct that you
6 registered the business name LayerZero Power
7 Systems International, Inc. with the Ohio
8 Secretary of State?

9 A. Subsequently, yes.

10 Q. And is it correct that those are
11 the only two business names that you've
12 registered with the Ohio Secretary of State?

13 A. Yes.

14 Q. Did you ever use the business name
15 LayerZero Power Systems International, Inc.?

16 A. Use in what sense? We have a
17 company that's LayerZero Power Systems
18 International, Inc.

19 Q. And could you describe for me the
20 business of that company?

21 A. Yes. For export -- export of
22 product, we -- how does this work now -- we
23 sell our product through LayerZero Power
24 Systems International, Inc. for overseas sales.

25 Q. So does LayerZero Power Systems,

1 Inc. sell products to LayerZero Power Systems
2 International, Inc., which in turn makes the
3 sales to the foreign customers?

4 A. It's a paper transaction, but yes,
5 correct.

6 Q. And is that the only business of
7 LayerZero Power Systems International, Inc.?

8 A. Yes.

9 Q. Could you identify for us your
10 ownership interest in LayerZero Power Systems,
11 Inc.?

12 A. Yes, I can. I own, I believe it's
13 39.5 percent of the company.

14 Q. Okay.

15 A. It may be off by a few decimals,
16 but it's in that neighborhood.

17 Q. And who are the other owners of the
18 company?

19 A. James Galm owns the exact same
20 amount, Anthony Pinkey is an owner, Jed Barcus
21 is an owner, Ramona Barcus is an owner, and
22 Hammuth Bhanoo is an owner.

23 Q. And Hammuth Bhanoo, is she a
24 relative of yours?

25 A. It's a he. He's my brother.

1 Q. How about Mr. Pinkey, what's his
2 ownership interest?

3 A. It's in the neighborhood of 8
4 percent.

5 MR. GIARRATANA: Thanks,
6 Mr. Bhanoo.

7 THE WITNESS: You're welcome.

8 MR. RUNDELLI: I have just a very
9 limited amount of Redirect.

10 EXAMINATION OF MILIND BAHNOO

11 BY MR. RUNDELLI:

12 Q. Mr. Bhanoo, I'm going to direct
13 your attention to Petitioner's Exhibit 22?

14 A. Okay, I'm there.

15 Q. Who at LayerZero Power Systems
16 decides whether or not LayerZero Power Systems
17 will attend a trade show or a trade association
18 event like those that are listed on Exhibit 22?

19 A. I do.

20 Q. And who has represented LayerZero
21 Power Systems at trade show or trade show
22 association events like those listed on Exhibit
23 22?

24 A. One of five people. It's either
25 Anthony Pinkey, me, James Galm, Ryan Fenik or

1 Heather, at one point Zalinski but now
2 McIntyre.

3 Q. I believe yesterday Registrant's
4 counsel asked you a question about LayerZero
5 Power Systems' dealings with consultants that
6 had multiple groups as opposed to consultants
7 that were exclusively in the electrical field.
8 Do you recall that questioning?

9 A. Yes, I do.

10 Q. And I believe you testified
11 yesterday that currently you're dealing with
12 consultants that have more than just an
13 electrical group, that you were not exclusively
14 dealing with the electrical group; is that
15 correct?

16 MR. GIARRATANA: Objection.
17 Leading.

18 MR. RUNDELLI: Why don't we go back
19 and find that line of questioning.

20 (Record read.)

21 Q. Mr. Bhanoo, in organizations like
22 that, subject to that testimony, who else
23 within those consulting firms would you be
24 dealing with if not just the electrical group?

25 MR. GIARRATANA: Objection.

1 Outside the scope of the Cross and also to the
2 extent that the Petitioner is attempting to
3 introduce information that should have been
4 disclosed during Discovery and was not.

5 MR. RUNDELLI: You can answer the
6 question.

7 A. So in consulting engineering firms
8 that are larger, they have other groups that
9 have architectural groups, they have heating,
10 ventilation, air conditioning, HVAC engineers,
11 typically all mechanical engineers, and they
12 have electrical engineers. What we're finding
13 now, as the dynamics of the industry has been
14 changing, is when we go and talk to the
15 consulting firm about the products, it's more
16 of a consortium of decision-making between
17 those three functions, and primarily that's
18 my -- my understanding is that's because the --
19 as power densities on the data center floor are
20 going up, it is insufficient or it's not
21 possible for just the electrical engineering
22 function to solve the problem of locating and
23 routing power on to the floor, they have to
24 consider the heat that's being generated by
25 customer cabinets, vertical rack cabinets that

1 contain servers, and then they also have to
2 consider the monitoring of the heat and the use
3 of the power that's happening. So it ends up
4 being a discussion that involves more than just
5 the electrical engineering function when we
6 present our products to them.

7 MR. GIARRATANA: Move to strike, in
8 addition to the reasons previously objected to,
9 and for on grounds of hearsay.

10 MR. RUNDELLI: That's all I have.

11 THE WITNESS: Very good.

12 (Deposition concluded at 9:48 a.m.)
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1 Whereupon, counsel was requested to give
2 instruction regarding the witness's review of
3 the transcript pursuant to the Civil Rules.
4

5 SIGNATURE:

6 Transcript review was requested pursuant to the
7 applicable Rules of Civil Procedure.
8

9 TRANSCRIPT DELIVERY:

10 Counsel was requested to give instruction
11 regarding delivery date of transcript.

12 Original: Raymond Rundelli ordered original
13 transcript regular delivery

14 Copy: Mark Giarratana
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REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

County of Cuyahoga.)

I, Jill A. Kulewsky, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, Milind Bhanoo, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not a
2 relative, counsel or attorney for either party,
3 or otherwise interested in the event of this
4 action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this _____ day of
8 _____, 2013.

9
10
11
12
13 _____
14 Jill A. Kulewsky, Notary Public
15 within and for the State of Ohio
16

17 My commission expires August 31, 2015.
18
19
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25

1 I do further certify that I am not a
2 relative, counsel or attorney for either party,
3 or otherwise interested in the event of this
4 action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 7TH day of
8 NOVEMBER, 2013.



13 Jill A. Kulewsky
14 Jill A. Kulewsky, Notary Public
15 within and for the State of Ohio

16
17 My commission expires August 31, 2015.
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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT NO: 1740972

CASE NAME: Layerzero Power Systems, Inc. v. Ortronics, Inc.

DATE OF DEPOSITION: 10/30/2013

WITNESS' NAME: Milind Bhanoo-VOL II

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date

Milind Bhanoo-VOL II

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT NO: 1740972

CASE NAME: Layerzero Power Systems, Inc. v. Ortronics, Inc.

DATE OF DEPOSITION: 10/30/2013

WITNESS' NAME: Milind Bhanoo-VOL II

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Milind Bhanoo-VOL II

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They have listed all of their corrections in the appended Errata Sheet;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

ERRATA SHEET
VERITEXT LEGAL SOLUTIONS OHIO
ASSIGNMENT NO: 1740972

PAGE/LINE(S) /	CHANGE	/REASON
Through Out	"Bahnoo" to "Bhanoo"	misspelling
Page 299, Line 20	"Jed Barcus" to "Ged Butkus"	misspelling
Page 299, Line 21	"Barcus" to "Butkus"	misspelling
Page 299, Line 22	"Hammuth Bahnoo" to "Hemant Bhanoo"	misspelling
Page 301, Line 1	"Zalinski" to "Zielinski"	misspelling

11/27/13 Milind M. Bhanoo
Date Milind ^{Bhanoo} ~~Bahnoo~~-VOL II

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27th
DAY OF November, 20 13.

[Signature]
Notary Public

LOU A WEBER, NOTARY
STATE OF OHIO
MY COMMISSION EXPIRES: 07/14/2014

7/14/2014
Commission Expiration Date



[& - attached]

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos.: 3,998,542 and 3,998,543

For the Marks: LAYER ZERO and LAYER 0

Date of Issue: July 19, 2011

LAYERZERO POWER SYSTEMS, INC.)

Petitioner,)

Cancellation No.: 92054573

v.)

ORTRONICS, INC.,)

Registrant.)

REGISTRANT'S EXHIBIT 1

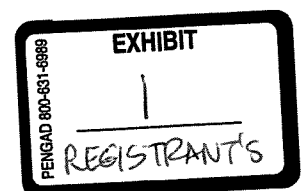
LayerZero Power Systems, Inc.

Promotional & Advertising expense without sales commissions

9/20/2012

Prepared by Milind M. Bhanoo

Year	Expense
2001	\$ 3,609.50
2002	\$ 6,715.18
2003	\$ 6,468.96
2004	\$ 19,308.35
2005	\$ 16,160.73
2006	\$ 40,185.38
2007	\$ 20,128.17
2008	\$ 82,574.81
2009	\$ 76,435.21
2010	\$ 49,404.48
2011	\$ 217,563.74



LZPS 003442

Advertising

Google Adwords

2009	596.15	596.15	\$596.15	\$596.15
2010	752.68	752.68	\$752.68	\$752.68
2011	1424.39	1424.39	\$1,424.39	\$1,424.39
2012	1426.98	1426.98	\$1,426.98	\$1,426.98

Bing Advertising

2010	66.31	66.31	\$66.31	\$66.31
2011	74.36	74.36	\$74.36	\$74.36
2012	35.32	35.32	\$35.32	\$35.32

Facebook 2011	301.35	301.35	\$301.35	\$301.35
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Data Center Post 2011	250	250	\$250.00	\$250.00
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Processor Magazine 2011	525	525	\$525.00	\$525.00
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DatacenterDynamics "Focus on Power" 2011	3900	3900	\$3,900.00	\$3,900.00
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PRWeb

2010	80	80	\$80.00	\$80.00
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2011	280	280	\$280.00	\$280.00
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Inewswire 2011	35	35	\$35.00	\$35.00
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AHCA Annual Seminar Event Program 2010	400	400	\$400.00	\$400.00
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			\$10,147.54	\$10,147.54
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Trade Shows

2009						Totals
	April 13-16, 2009 Uptime Institute Symposium & Expo	Booth & Sponsorship	New York	20000		\$20,000.00
	October 4-7, 2009 AFCOM Data Center World	Booth & Sponsorship	Orlando Marriott World Center	620.45		\$620.45
2011						
	March 9-10, 2011 Datacenter Dynamics	Booth & Sponsorship	NYC	10500		\$10,500.00
	March 27-31, 2011 AFCOM Data Center World	Booth & Sponsorship	Mirage Las Vegas	7080		\$7,080.00
	May 13-15, 2011 Uptime Institute	Booth & Sponsorship	Santa Clara, CA	20000		\$20,000.00
	May 19, 2011 7x24 Atlanta			500		\$500.00
	June 12-15, 2011 2011 Spring Exchange	Silver Sponsorship	Hilton Bonnet Creek, Orlando	7500		\$7,500.00
	September 27-28, 2011 DGE 2011	Booth & Sponsorship	Montreal, Quebec	17011.9		\$17,011.89
	December 1, 2011 7x24 Southeast Michigan Event	Table	Detroit, MI	500		\$500.00
	7x24 Exchange	Booth & Sponsorship	Arizona Biltmore Phoenix, AZ	7500		\$7,500.00
2012						
	May 14, 2012 Uptime Institute	Booth & Sponsorship	Santa Clara, CA	19000		\$19,000.00
June 10-13, 2012?	7x24 Exchange	Booth & Sponsorship	Hilton Bonnet Creek, Orlando	7500		\$7,500.00

Advertising

Google Adwords					
	2009	596.15	596.15	\$596.15	\$596.15
	2010	752.68	752.68	\$752.68	\$752.68
	2011	1424.39	1424.39	\$1,424.39	\$1,424.39
	2012	1426.98	1426.98	\$1,426.98	\$1,426.98
Bing Advertising					
	2010	66.31	66.31	\$66.31	\$66.31
	2011	74.36	74.36	\$74.36	\$74.36
	2012	35.32	35.32	\$35.32	\$35.32
Facebook 2011		301.35	301.35	\$301.35	\$301.35
Data Center Post 2011		250	250	\$250.00	\$250.00
Processor Magazine 2011		525	525	\$525.00	\$525.00
DatacenterDynamics "Focus on Power" 2011		3900	3900	\$3,900.00	\$3,900.00
PRWeb					
	2010	80	80	\$80.00	\$80.00
	2011	280	280	\$280.00	\$280.00
InewsWire 2011		35	35	\$35.00	\$35.00
AHCA Annual Seminar Event Program 2010		400	400	\$400.00	\$400.00
				\$10,147.54	\$10,147.54

Trade Show Materials

	12/6/2010 Touch Overlay	Provantage	North Canton, OH	1249.04	\$1,249.04
	12/6/2010 46" TV	Cleveland Corporate	Cleveland, OH	1795	\$1,795.00
	12/6/2010 TV Stand	Cleveland Corporate	Cleveland, OH	730	\$730.00
	1/17/2011 Carpet	Camelback Displays	Spring, TX	2729.5	\$2,729.50
	1/13/2011 Case	Excel Cases	Hanappauge, NY	1343	\$1,343.00
	2/9/2011 Graphics	Lake Erie Graphics	Brook Park, OH	444	\$444.00
	4/22/2011 Lead Retrieval System	Leadwizerd	Delray Beach, FL	2399	\$2,399.00
	4/22/2011 Booth Redesign	KSK	Solon, OH	2263.84	\$2,263.84
	7/11/2011 Table Skirt	KSK	Solon, OH	317.55	\$317.55
	9/14/2011 Touchscreen Graphic	Fastsigns	Cleveland, OH	213.35	\$213.35

Trade Show Materials

Global Spec					
2010	13600	20% discount	13600	\$13,600.00	\$13,600.00
2011	3995		3995	\$3,995.00	\$3,995.00
2012	5946		5946	\$5,946.00	\$5,946.00
Thomasnet					
2010	1890		1890	\$1,890.00	\$1,890.00
2011	1890		1890	\$1,890.00	\$1,890.00
2012	2160		2160	\$2,160.00	\$2,160.00

SugarCRM

2010	1341.9	1341.9	\$1,341.90
2011	1341.9	1341.9	\$1,341.90
2012	1341.9	1341.9	\$1,341.90

Software

4/8/2009	Adobe CS4	2495	2495	\$2,495.00
3/5/2010	PTGUI	208.59	208.59	\$208.59
3/5/2010	Pano2VR	49.95	49.95	\$49.95
3/18/2010	Imagineer Systems Mocha	306.48	306.48	\$306.48
3/30/2010	ActiveDen	7	7	\$7.00
4/30/2010	Adobe CS5	968.68	968.68	\$968.68
9/29/2010	Awio VisitorBoost	1.95	1.95	\$1.95
4/2/2012	Luxion Keyshot	2995	2995	\$2,995.00
4/2/2012	Object2VR	67.04	67.04	\$67.04

Promotional Items

Flash Drives						
9/8/2010	1 GB	100	19	769	\$769.00	\$769.00
1/24/2011	2 GB	500	19	3609	\$3,609.00	\$3,609.00
1/31/2012	8 GB	500	19	4664	\$4,664.00	\$4,664.00

Hats

2011 Pink	150 Graffiti	1447	\$1,447.00	\$1,447.00
2011 Camo	48 Graffiti	492	\$492.00	\$492.00
2011 Charcoal	600 Graffiti	5790	\$5,790.00	\$5,790.00
2012 Orange	1000 HeadWear24	3990	\$3,990.00	\$3,990.00

Brochure

2011 Catalog	1000 Jakprints	1718.61	\$1,718.61	\$1,718.61
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Apparel

10/13/2010	Shirts	6 LL Bean	226.3	\$226.30	\$226.30
11/10/2010	Coats	10 Lands End	1304.51	\$1,304.51	\$1,304.51
11/24/2010	Shirts	29 LL Bean	1328.51	\$1,328.51	\$1,328.51
11/30/2010	Coats	40 Lands End	3332.79	\$3,332.79	\$3,332.79
1/24/2011	Shirts	59 LL Bean	2311.35	\$2,311.35	\$2,311.35
7/13/2011	Shirts	18 Lands End	488.97	\$488.97	\$488.97
8/26/2011	Tshirts	216 Jakprints	1996	\$1,996.00	\$1,996.00
9/9/2011	Shirts	75 Lands End	5265.34	\$5,265.34	\$5,265.34
9/21/2011	Shirts	200 Lands End	8686.55	\$8,686.55	\$8,686.55
9/30/2011	Shirts	2 Lands End	126.3	\$126.30	\$126.30

Golf Balls

7/13/2009	Titleist Pro V1	65 Doz	2517	\$2,517.00	\$2,517.00
3/27/2012	Titleist Pro V1	36 Doz	1394	\$1,394.00	\$1,394.00

Van

7/27/2009	Van Graphics	Traffgraff	Mentor, Ohio	840.45	\$840.45	\$840.45
7/7/2010	Van Graphics	Lake Erie Graphics	Brook Park, Ohio	930	\$930.00	\$930.00
7/15/2011	Van Painting	Maaco	Amherst, Ohio	1000	\$1,000.00	\$1,000.00
7/21/2011	Van Graphics	Lake Erie Graphics	Brook Park, Ohio	1140	\$1,140.00	\$1,140.00
9/27/2011	Vehicle Magnets (2)	Lake Erie Graphics	Brook Park, Ohio	61.86	\$61.86	\$61.86

Website Extras

Voiceovers					
6/20/2011	Bluetooth Connectivity	Corky Coteson	235	\$235.00	\$235.00
10/24/2011	Bypass Instructions	ProCom M Studio	637.5	\$637.50	\$637.50
2/7/2012	eGIS Bypass Procedure	ProCom M Studio	637.5	\$637.50	\$637.50
2/7/2012	2 Source Bypass (4000A)	ProCom M Studio	922.5	\$922.50	\$922.50
3/7/2012	4000A eSTS movies	Corky Coteson	475	\$475.00	\$475.00

Stock images

	6/23/2011 IT Data Center	Getty Images	35	\$35.00	\$35.00
Translation Services					
	8/3/2011 DOE Presentation Title	All Languages Limited	65	\$65.00	\$65.00
	9/29/2011 DOE Thank you email	All Languages Limited	118	\$118.00	\$118.00
Total:				\$250,653.13	\$108,331.12
Total (Advertising Only):					